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MATT BLUNT

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



Happy Holidays
from the
Administrative
Rules staff!

Office of the Secretary of State

MATT BLUNT



*A Very Merry Christmas
and a Happy New Year*



The Administrative Rules Staff wants to take this opportunity to extend to each of you our best wishes for a blessed holiday season!! We hope your Christmas will be bright and your New Year a happy, safe and prosperous one.

Jim McClure

*Sally Reid
Wilbur Highbarger*

*John C. Hegmann
Barbara McDougal*

Mary Davis

Arthur W. Treat

Sandy Sanders

Carly Hargrove

Lynne

Lynne C. Angle,
Director, Administrative Rules Division

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested
Cases Under Statutory Jurisdiction/
Except Cases Under Section 621.040, RSMo]**

EMERGENCY AMENDMENT

1 CSR 15-3.200 Subject Matter. The commission is amending the chapter title and provisions of the rule.

PURPOSE: The Administrative Hearing Commission is amending this regulation so that this Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This amendment amends this chapter so that it will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its

procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Constitution of Missouri and the Constitution of the United States of America. The commission believes that this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

This chapter 1 CSR 15-3 contains all procedural regulations for all contested cases assigned to the Administrative Hearing Commission by statute, except for cases under section 621.040, RSMo. For cases under section 621.040, RSMo regulations are located at 4 CSR 265-2.010, 4 CSR 265-2.020, 4 CSR 265-2.030, 4 CSR 265-2.040, and 4 CSR 265-2.050]. For cases under section 621.040, RSMo, specific statutory provisions may apply in place of these regulations. This chapter does not apply to cases not assigned to the Administrative Hearing Commission by statute, including cases in which the Administrative Hearing Commission acts as a hearing officer for another agency by inter-agency agreement.

AUTHORITY: sections 536.073.3 and 622.027, RSMo 2000 and 226.008.4, RSMo Supp. 2002 and 621.198, RSMo Supp. 2001. Original rule filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Emergency amendment filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.070 Complaints. There was statutory provision for complaints to be made to the division. This rule established the procedures for filing the complaints.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same

material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure
EMERGENCY RESCISSION**

4 CSR 265-2.080 Pleadings. This rule prescribed the content and procedure for filing pleadings.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

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EMERGENCY RESCISSION**

4 CSR 265-2.085 Dismissal of Cases. This rule expressed the division's policy on the dismissal of formal cases filed with the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Original rule filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1995. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
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and Railroad Safety
Chapter 2—Practice and Procedure
EMERGENCY RESCISSION**

4 CSR 265-2.090 Discovery and Prehearings. This rule prescribed the procedures for formal discovery and for prehearing conferences.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division

of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri and the Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed May 17, 1989, effective Sept. 11, 1989. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1995. Amended: Filed Aug. 3, 1995, effective Feb. 26, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
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Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.100 Subpoenas and Formal Investigations. The division could issue subpoenas for the production of witnesses and records and could conduct investigations into alleged unlawful activity within its jurisdiction. This rule prescribed the procedure for requesting and issuing subpoenas and for initiating and concluding formal investigations by the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The

scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri and the Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1994. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
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and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.110 Hearings. The division was charged with the responsibility of prescribing the rules governing all hearings before it. This rule prescribed the setting and notices of hearings, interventions and conduct of hearings.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri and the Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of Sate Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
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EMERGENCY RESCISSION

4 CSR 265-2.115 Continuances. This rule set forth the procedures and time periods for obtaining continuances.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Emergency rescission filed Oct. 3, 1986, effective Oct. 23, 1986, expired Dec. 11, 1986. Original rule filed July 31, 1986, effective Oct. 27, 1986. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.116 Interventions. This rule set forth the procedures and time periods for interventions.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under sec-

tion 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Emergency rescission filed Oct. 3, 1986, effective Oct. 27, 1986, expired Dec. 11, 1986. Original rule filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 4—DEPARTMENT OF ECONOMIC
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Division 265—Division of Motor Carrier
and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.120 Evidence. This rule prescribed the rules of evidence in any hearing before the administrative law judge.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the

Constitution of Missouri and the Constitution of the United States of America. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

*AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**.*

**Title 4—DEPARTMENT OF ECONOMIC
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and Railroad Safety
Chapter 2—Practice and Procedure**

EMERGENCY RESCISSION

4 CSR 265-2.130 Briefs and Oral Argument. This rule set forth the rights of and procedures for filing briefs and presenting oral arguments in any hearing before the division.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

*EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the **Constitution of Missouri and the Constitution of the United States of America**. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.*

*AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Emergency amendment filed Aug. 16, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**.*

**Title 4—DEPARTMENT OF ECONOMIC
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EMERGENCY RESCISSION

4 CSR 265-2.140 Decisions of the Division. This rule prescribed the method of issuing a decision of the division and the effective date of that decision.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

*EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the **Constitution of Missouri and the Constitution of the United States of America**. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.*

*AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency amendment filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Amended: Filed July 31, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996. Emergency amendment filed Aug. 16, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**.*

**Title 4—DEPARTMENT OF ECONOMIC
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EMERGENCY RESCISSION

4 CSR 265-2.150 Rehearings. This rule prescribed the procedure for requesting a rehearing on a decision by the division and the disposition of that request.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1

CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expired May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 265—Division of Motor Carrier and Railroad Safety

Chapter 4—Standards of Conduct

EMERGENCY RESCISSION

4 CSR 265-4.010 Gratuities and Private Employment. The division was obligated to promote the public interest and maintain public confidence in its integrity and impartiality. This rule prescribed measures to prohibit practices that possessed a potential of wrongdoing.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires

this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 265—Division of Motor Carrier and Railroad Safety

Chapter 4—Standards of Conduct

EMERGENCY RESCISSION

4 CSR 265-4.020 Conduct During Proceedings. The division had to insure that there was no question as to its impartiality in reaching a decision on the whole record developed during open hearings. This rule prohibited activities which would have tended to exercise influence on the division and which were not part of the record.

PURPOSE: The Administrative Hearing Commission is rescinding this regulation because, under the concurrently filed amendment to 1 CSR 15-3.200, Chapter 1 CSR 15-3 will apply to transportation cases under section 621.040, RSMo Supp. 2002.

EMERGENCY STATEMENT: This rescission rescinds this regulation so that it, 1 CSR 15-3, will apply to transportation cases under section 621.040, RSMo Supp. 2002. Section 226.008.4, RSMo Supp. 2002, transferred cases under the jurisdiction of the former Division of Transportation's Administrative Law Judges, and rules made by that entity, to the Administrative Hearing Commission. Statutes require the commission to have regulation for certain procedures which do not exist in the transferred rules. Also, certain of the transferred rules conflict with statutes governing the commission, or are redundant with rules made by the commission, causing confusion in the commission's practice. Statutory mandates for the commission to provide certain rules, to facilitate the processing of cases, and to simplify its procedures, and the transfer of rules to the commission are circumstances that create a compelling state interest, which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this rescission is limited to the circumstances creating the emergency and complies with the protections extended by the *Constitution of Missouri* and the *Constitution of the United States of America*. The commission believes that this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed on November 26, 2002, effective December 6, 2002, and expires May 30, 2003.

AUTHORITY: section 622.027, RSMo 1986. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency rescission filed Nov. 26, 2002, effective Dec. 6, 2002, expires May 30, 2003. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 30—Permanency Planning for Children**

EMERGENCY AMENDMENT

13 CSR 40-30.020 Attorney Fees [and Guardian Ad Litem Fees] in Termination of Parental Rights Cases. The division is amending sections (1) and (2), and deleting section (3).

PURPOSE: The purpose of this amendment is to increase and clarify the established fees for attorneys who provide services in termination of parental rights cases and to eliminate the fee structure for guardian ad litem.

EMERGENCY STATEMENT: The division has determined that an emergency amendment is needed in order to raise and clarify the fees for attorneys involved in termination of parental rights cases. The rule is also being amended to comply with current statutory regulations which allow courts to set the fees for guardian ad litem. As a result the division finds a compelling governmental interest in assuring adequate representation for individuals. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The division believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed December 4, 2002, effective December 14, 2002, and expires June 11, 2003.

(1) If permanency for the children requires parental rights be terminated to enable children to be permanently placed or adopted, the children's parents shall be provided representation in such cases which shall include counsel, investigative, expert and other services to ensure adequate representation. This includes the appointment of a guardian *ad litem* for the children. Representation shall be provided for financially eligible persons. A person is considered financially eligible when it appears from all of the circumstances of the case including the person's income, the number of individuals dependent on the person for support, and the person's financial assets and liabilities, that the person does not have the means available to obtain counsel and is indigent. *[The determination of indigency may be made at any time by the Division of Family Services.]* Upon motion and/or application by any party, the court in which the case is pending shall have the authority to determine, based on a finding of indigency, whether the Division of Family Services should pay for counsel for a particular parent. **The motion and/or application for and determination of indigency may be made at any time by the court.** If the court finds the parent is not indigent, the Division of Family Services shall discontinue paying for counsel on behalf of such parent. Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association or other organization of attorneys willing to furnish representation of parents in termination of parental rights cases. A person for whom counsel is appointed shall be represented at every stage of the **termination of parental rights** proceeding, from his or her initial appearance **after the filing of the termination of parental rights petition is filed** through appeal, including ancillary matters appropriate to the proceedings. In the interest of justice, one counsel may be substituted for another at any stage of the proceedings.

(2) **After the filing of a termination of parental rights petition pursuant to Chapter 211, RSMo, or if a combined termination of parental rights and transfer of custody and/or adoption petition was filed, as permitted by Chapter 453, RSMo, then after the initiation of the termination of parental rights phase of that case**

[P]ayment for attorney representation shall be made as provided below:

(A) Hourly Rate. Any attorney shall, at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal), be compensated at a rate not exceeding *[seventy-five dollars (\$75) per hour for time expended in court and fifty dollars (\$50)] one hundred dollars (\$100) per hour [for time reasonably expended out of court]*. Attorneys may be reimbursed, **at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal)**, for expenses reasonably incurred, including the costs of transcripts authorized by the court **except that if a termination of parental rights petition was filed in a separate proceeding and a duplicative termination of parental rights petition or the transfer of custody and/or adoption petition or the combined termination of parental rights and transfer of custody and/or adoption petition was filed prior to the court's ordering of termination of parental rights in that separate proceeding, reimbursement for attorneys fees and/or expenses will not be reimbursed if those fees and/or expenses are duplicative of fees and/or expenses reimbursed in the separate termination of parental rights proceeding;**

(B) Maximum Amounts. The compensation to be paid for representation at trial shall not exceed *[seven hundred fifty dollars (\$750)] one thousand dollars (\$1,000)* for uncontested matters and *[two thousand five hundred dollars (\$2,500)] seven thousand dollars (\$7,000)* for contested matters. For representation in an appellate court, the compensation shall not exceed *[two thousand five hundred dollars (\$2,500)] three thousand five hundred dollars (\$3,500)* at *[fifty dollars (\$50)] one hundred dollars (\$100)* per hour;

(C) Cost of Extraordinary Expenses. The cost of extraordinary expenses must be approved in advance by the court **but shall be reimbursed at the conclusion of the representation (i.e., the conclusion of trial or at the conclusion of any appeal, or both at the conclusion of trial and at the conclusion of appeal)**. Such extraordinary expenses include:

1. Psychiatric/psychological/medical evaluations;
2. Expert witnesses; and
3. Deposition of witnesses;

(D) Waiving Maximum Amounts. Payment in excess of any maximum amount provided in subsection (2)(B) may be made for extended or complex representation whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the court. **At any time an attorney believes that the cost of representation will surpass the limits provided for in subsection (2)(B), they must provide notice to the Division of Family Services, that they may exceed the current maximum fee;**

[(3) Payment for Guardian Ad Litem. Children involved in termination of parental rights cases are entitled to a guardian ad litem. The fees for the guardian ad litem shall be paid in the maximum amount of two thousand five hundred dollars (\$2,500) at fifty dollars (\$50) per hour for out of court services and seventy-five dollars (\$75) per hour for in court services.]

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Feb. 14, 2002, effective Feb. 24, 2002, expired Aug. 22, 2002. Original rule filed Feb. 14, 2002, effective July 30, 2002. Emergency amendment filed Dec. 4, 2002, effective Dec. 14, 2002, expires June 11, 2003. A proposed amendment covering this same material is published in this issue of the Missouri Register.